IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1400 & 1405 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NARSINHBHAI H BHUT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1400 of 1999

MR VIPUL S MODI for Petitioner No. 1-4

MR MEHUL SHARAD SHAH for Petitioner No. 1-4

Mr. ND Gohil, AGP for Respondent No. 1

MR MAHIPAL J BIHOLA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 24/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Mehul Sharad Shah for the petitioners; Mr. N.D.Gohil, learned AGP for respondent No.1 and Mr. Mahipal J. Bihola, learned advocate for respondent no.2. According to the petitioners in these two petitions, they were appointed in respondent no. 2 pre primary school in the year 1976 to 1985. According to the petitioners, in the year 1985-94, resolutions whose benefit is claimed by the petitioners were passed by the authorities giving benefits to PTC Employees and he petitioners made representationn that they ought to be given these benefits as PTC and Pre PTC ought to be treated at par as their appointment, conditions of service, even the pay scale is the same and has always been the same governed by one and the same Gujarat Education Institutions (Regulation) Act, 1984 but the same was rejected by the respondents by letter dated 31.3.1995 and, thereafter, on 29.11.1995 and 7.9.1996, 10.10.1996, 3.7.1997, 1.12.1997, petitioners made representations to consider their demand justly as there was no rationale in discrimination between PTC & Pre PTC employees. In December, 1997, special civil application no. 9356 of 1997 was preferred by the petitioner which came to be disposed of by this Court on 23.1.1998 by directing the respondent State to consider the representation of the petitioners with reasons within a stipulated period. Thereafter, the petitioners filed their representation on 27.2.1998 and made several reminders and thereafter, were constrained to file Misc. Civil Application No. 2122 of 1998 under the Contempt of Courts Act and in view of the receipt of the notice in the contempt proceedings, the respondents issued letter asking the petitioners to provide details as to financial implications on 3.10.1998 and ultimately on 8.10.1998, their representation was rejected on the ground of the decision of the State Government of the year 1991 not to incur any more financial burden without verifying even the fact that several benefits and allowances have been in fact issued after the 1991 decision. This Court disposed of the contempt petition in October, 1998 on the basis of the letter dated 8.10.1998 and, therefore, the petitioners have filed these petitions.

Today when the matters were taken up for hearing, it was submitted by the learned advocate Mr. Shah that the similar benefits were granted in favour of the employees of Dakshinamurti Bal Adhyapan Mandir, Bhavnagar and such other institutions whereas such similar benefits have been denied to the petitioners in these petitions, including the benefit of higher grade and other benefit and this fact has been clarified in item no. 17 that

this resolution is also applicable to the employees including the teachers who are having PF Account in the Government. Therefore, it was submitted by the learned advocate Mr. Shah that the decision of the respondent State in rejecting the representation of the petitioners is not correct. According to him, after 1991, more than 12 years have passed and yet such benefits to which the petitioners are entitled have not yet been given to the petitioners.

Considering the submissions made by the learned advocates for the parties, and also considering the fact that such benefits have subsequently been given by the State Government as submitted by the learned AGP Mr. Shah, as per this Court's view, it would be just and proper if the matter is examined by the Secretary to the Education Department in consultation with the Secretary to the Finance Department and to pass appropriate well reasoned order in accordance with law within some reasonable period.

I have considered the submissions made by the learned advocates for the parties. The grievances raised by the petitioners in the year 1991 is still surviving and, therefore, it is open for the petitioners to send copy of these two petitions with all annexures to the petitions to the Secretary, Education Department, State of Gujarat, with any additional and further material/document, if any, as desired by the petitioners within three weeks from the date of receipt of copy of this order. As and when such copies of the petition with documents annexed thereto including the additional material/documents, if any, is received by the Secretary, Education Department, it is directed to the Secretary, Education Department, State of Gujarat to consider the same and to examine the grievance of the petitioner and to pass appropriate order in accordance with law in consultation with the Secretary, Finance Department of the State while keeping in view the instances cited by the petitioners about grant of such similar benefits to other institutions after 1991, after considering various government resolutions including the policy of the State Government and to pass appropriate order in accordance with law within three months from the date of receipt of such copies of the petitions with annexures thereto from the petitioners after hearing the petitioner's learned advocate Mr. Shah and to communicate his decision to the petitioners.

With these observations and directions, these two petitions are disposed of. Rule in each of the petitions

is discharged. Interim relief, if any, shall stand vacated. There shall be no order as to costs. It will be open for the petitioners to challenge the decision of the Secretary, Education Department, State Government before the appropriate forum in accordance with law if such decision is adverse to the petitioners.

Dt.24.9.2003. (H.K. Rathod,J.)

Vyas